IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4870 OF 2003

Dr.Umesh V. Vaidya Applicant

versus

Mrs.Swati Bapat & another Respondents

Mr.Umesh Deshpande for applicant.

Mr.N.V.Gangal - adv. for respondent no.1.

Mr.K.V.Saste - APP for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 13th December 2005

PC :

1. Heard Shri Deshpande for applicant, Shri Gangal for respondent no.1 who is original complainant and Shri Saste - APP for State.

2. Upon a complaint filed by the first respondent herein alleging offences punishable under sections 403, 406, 409, 464, 477-A IPC, the learned JMFC issued process under sections 403, 406 and 407 of IPC.. That order passed by the learned JMFC was sought to be recalled by the

petitioner accused. The application in that behalf was dismissed by the JMFC on 4th September 1999.

3. Aggrieved by that order Criminal Revision Application No.576 of 1999 was filed in the Court of District Judge, Pune. The said revision application has been dismissed on 29th April 2003 principally on the ground that the said order of the learned Magistrate does not call for any interference in the revisional jurisdiction.

4. The only contention of Shri Deshpande appearing for the petitioner is that the complaint is filed by the erstwhile partner alleging criminal breach of trust against the petitioner who is also a partner of the partnership firm. No offence under sections 403, 406 and 409 of IPC can be culled out when the allegation is that there is a dispute between two partners on the issue of administration and management of the partnership firm. In that behalf he relies upon a decision of Supreme Court reported in AIR-1965-SC-1423 (Velji Raghav Vs. State).

5. In my view, all such contentions including on

maintainability can be raised during the course of the proceedings and neither the order of the learned Magistrate nor that of the revisional Court can prevent the petitioner from raising them. It could be open for the petitioner to point out that ingredients of Sections 403 and 406 can not be attracted when the facts are nothing but alleged disputes and differences between the partners during the course of business. No interference is called under section 482 considering the orders of Court below. Petition disposed of.

(S.C.DHARMADHIKARI, J.)